

REMARKS/ARGUMENTS

Claims 1, 2, 4-10, 12-18, 20-26 and 28-30 are pending. Claim 25 is objected to. Claims 5, 6, 29 and 30 are rejected under 35 U.S.C. §101. Claims 1-6, 17-22, 25-30 are rejected under 35 U.S.C. §112, second paragraph. Claims 1, 2, 4-7, 9, 10, 12-15, 17, 18, 20-23, 25, 26 and 28-30 are rejected. Claim 25 is amended to correct a clerical error. Claims 1, 2, 5, and 29 are amended to overcome antecedent basis problems. No new matter is added.

First, Applicants gratefully acknowledge the Office Action's indication that claims 8, 16, and 24 contain allowable subject matter. *See* Office Action dated 3/19/2007, paragraph 26.

With regard to the Office Action's objection to the title in that it allegedly fails to point out and distinctly claim the subject matter the Applicants regard as the invention, Applicants submit claim 1 is, for example, directed to a method of assigning thread priority in a processor. Applicants request clarification.

With regard to the §112 rejection of claims 1-6, 17-22, 25-30, Applicants submit the rejection is obviated and should be withdrawn.

With regard to the §101 rejections of claims 5, 6, 29, and 30, Applicants submit the rejection is obviated and should be withdrawn.

Claims 1, 2, 7, 9, 10, 15, 17, 18, 23, 25 and 26 are rejected under 35 U.S.C. §102(c) as being anticipated by Johnson, U.S. Publication No. US2002/0138670 ("Johnson"). Applicants respectfully request reconsideration in view of the following remarks.

Applicants respectfully submit nowhere in Johnson is the teaching or suggestion of a method of assigning thread priority comprising determining if there is an indication of approaching instruction side starvation for said first thread wherein instruction fetching for said first thread would be blocked due to processing one or more instructions from another thread (*e.g.*, as described in claim 1).

The Office Action asserts Johnson teaches the relevant limitations, citing Figure 4, elements 164 and 166. *See* Office Action dated 3/19/2007, paragraph 19. Applicants disagree.

The description of elements 164 and 166 of Figure 4 is as follows: "In such case, the device driver filter 8 determines (at block 164) whether there are any deferred I/Os pending in the low priority I/O queue 24. If not, then control ends as no consideration of any deferred low priority I/Os is necessary. Otherwise, if there are deferred low priority I/Os, then the device driver filter 8 determines (at block 166) whether the starvation counter 28 is at the maximum possible value."

The cited element block 164 describes determination of whether there are any deferred I/Os pending in a low priority queue, and if not, discontinuing consideration of low priority I/Os. Otherwise, at block 166, a device driver filter determines whether a starvation counter is at the maximum possible value.

Applicants submit the cited section fails to teach or suggest the relevant limitations, for at least the reason that it does not describe determining if there is an indication of approaching instruction side starvation for said first thread or blocking instruction fetching for said first thread due to processing one or more instructions from

another thread. Indeed, the cited section does not describe instruction side starvation or blocking instruction fetching even generally.

In order to be a proper 35 U.S.C. §102(e) rejection, the claimed limitations must be taught or disclosed in the cited reference. For at least the above reasons, the Office Action's citations are inadequate to support a proper §102(e) rejection of claim 1. Applicants submit claim 1 is allowable; independent claims 7, 9, 15, 17, 23 and 25 contain similar limitations, and therefore are allowable as well. Dependent claims 2-4-6, 8, 10, 12-14, 16, 18, 20-22, 24, 26 and 28-30 depend from allowable base claims and therefore should be allowed as well.

For at least all the above reasons, the Applicants respectfully submit that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. **11-0600**.

Respectfully submitted,
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